

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket № 14184US02)**

In the Application of:

Ed H. Frank

Serial No. 10/658,142

Filed: September 9, 2003

For: METHOD AND SYSTEM FOR
LOCATION BASED CONFIGURATION
OF A WIRELESS ACCESS POINT
(WAP) AND AN ACCESS DEVICE IN A
HYBRID WIRED/WIRELESS
NETWORK

Examiner: Jung H. Park

Group Art Unit: 2619

Confirmation No. 5401

Electronically Filed on 04-SEP-2008

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on May 29, 2008 ("Final Office Action") with **a period of reply through September 29, 2008 pursuant to the attached request for one-month extension.** The Applicant also requests review of the arguments stated on page 2 of the Advisory Office Action mailed on August 19, 2008 ("Advisory Office Action"). No amendments are being filed with this request.

This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

REMARKS

The present application includes pending claims 1-32, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-9, 11-19, 21-29, 31 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,875,185 (“Wang”), in view of USP 5,371,738 (“Moelard”). Claims 10, 20 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, in view of Moelard, further in view of U.S. Patent No. 7,200,673 (“Augart”). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

I. Claims 1-9, 11-19, 21-29, and 31-32 - Rejection of Independent Claim 1

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Wang-Moelard does not disclose or suggest at least the limitation of “identifying a location of a network device within the hybrid wired/wireless network, the network device being movable within the hybrid wired/wireless network,” as recited by the Applicant in independent claim 1. With regard to this claim limitation relating to the first sub-clause of claim 1, the Applicant respectfully maintains the argument stated in pages 12-18 of the July 29, 2008 response.

Furthermore with regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Wang-Moelard does not disclose or suggest at least the limitation of “determining configuration information corresponding to said determined location of said network device,” as recited by the Applicant in independent claim 1.

The Final Office Action states the following with regard to claim 1:

- determining configuration information (connecting message, see 104 fig.9A) corresponding to the determined location of the network device (MTa moves from old BS to new BS, see 104 fig.9A);

See the Final Office Action at page 3. The Examiner is equating Applicant's "configuration information" with Wang's "connecting message." The Applicant points out that, as stated in step 104 of Wang's FIG. 9a, the "connecting message" consists of virtual channel connection (VCC) information. Furthermore, in instances of intra-switch signal processing (e.g., FIG. 4 of Wang), the virtual channel is used between a base station and a switch. See Wang, col. 6, lines 7-9. In instances of inter-switch signal processing (e.g., FIG. 6 of Wang), the virtual channel is used only between the base stations. See Wang, col. 7, lines 18-19. In this regard, **in both signal processing scenarios disclosed by Wang, the VCC corresponds only to a base station and/or a switch and it does not correspond to any of the MTs. Moreover, even if the "connecting message" of Wang can be considered "configuration information" (which Applicant does not concede), there is no indication whatsoever in Wang that such information is different depending on which base station is involved. In other words, Wang cannot disclose that such information corresponds to a determined location of a mobile terminal – the information is the same regardless of the location of the mobile terminal.** Therefore, the Applicant maintains that Wang does not disclose or suggest at least the limitation of "determining configuration information corresponding to said determined location of said network device," as recited by the Applicant in independent claim 1. Moelard does not overcome the above deficiency of Wang.

Therefore, the Applicant maintains that the combination of Wang-Moelard does not disclose or suggest at least the limitation of "determining configuration information corresponding to said determined location of said network device," as recited by the Applicant in independent claim 1.

Furthermore with regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Wang-Moelard does not disclose or suggest at least the limitation of "communicating said determined configuration information to said networking device for providing location based configuration of said network device," as recited by the Applicant in independent claim 1. **The Applicant points out that this argument is not even addressed in the Advisory Office Action.**

The Final Office Action states the following with regard to claim 1:

- communicating the determined configuration information to the networking device (communication between old BS and Switch, see 106 fig.9A) for providing location based configuration of the network device (106 fig.9A).

See the Final Office Action at page 3. The Final Office Action relies for support on step 106 in Figure 9a of Wang. Step 106 in Figure 9a of Wang discloses that after BS_{ORIG} receives the "location message", **it issues to the switch** to which it is connected, a "routing message" containing VCC_{k,a}, the location of BS_{ORIG}, and the location of BS_{NEW}. The Applicant points out that **the "routing message" is issued to the switch, i.e., it is not issued or communicated to the base station BS_{NEW}**, which the Final Office Action has equated to Applicant's "network device" (which is different than the Examiner's position in the Advisory Action, which equates Applicant's network device to an MT (mobile terminal)). Furthermore, the Applicant points out that the "routing message" contains information that is used for establishing a handoff between two base stations and it is not communicated to a network device to enable location based configuration of that network device, as recited in Applicant's claim 1. Moelard does not overcome the above deficiency of Wang.

Therefore, the Applicant maintains that the combination of Wang-Moelard does not disclose or suggest at least the limitation of "communicating said determined configuration information to said networking device for providing location based configuration of said network device," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Wang and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. The Applicant also maintains the arguments regarding the allowability of dependent claims, stated in page 22 of the July 29, 2008 response.

II. Conclusion

The Applicant respectfully submits that claims 1-32 of the present application should be in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

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